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A MEMOIR

OF

EDWARD SHIPPEN,

CHIEF JUSTICE OF PENNSYLVANIA.

TOGETHER WITH

SELECTIONS FROM HIS CORRESPONDENCE.

BY

LAWRENCE LEWIS, JR.

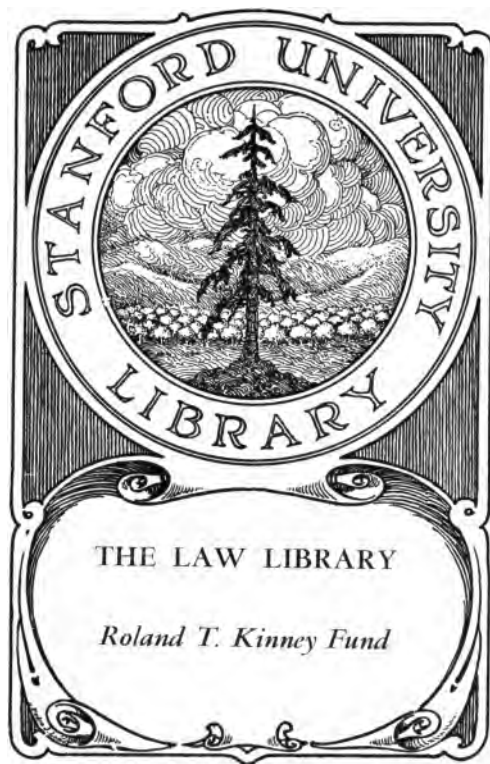
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1883.





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EDWARD SHIPPEN,  
CHIEF-JUSTICE OF PENNSYLVANIA.

Edward Shippen, the third of that name in this country, was the son of Edward and Sarah Shippen.<sup>1</sup> He was born in the city of Philadelphia on the 16th day of February, 1729. Of his early education we have no authentic account. One biographer,<sup>2</sup> indeed, has thought fit to dwell with complacency upon "his attention to his studies, his respectfulness and submission to his preceptors, the engaging affability of his manners and the propriety and decorum of his general deportment." It is to be feared, however, that much of this glowing eulogy should be attributed to the partiality of the writer rather than to the merit of his subject. This only we are fairly entitled to presume, that, being the son of a prosperous merchant and well-known citizen, he enjoyed to the full whatever educational facilities the Philadelphia of his time afforded.

In 1746, having reached the age of seventeen years, young Shippen entered upon the study of the law in the office of Tench Francis, Esq., the most noted counsel then at the Philadelphia bar, whose practice was large and lucrative, and who was in the following year appointed to be Attorney-General of the Province.

In such an office it may well be believed that Mr. Shippen had an excellent opportunity to become acquainted with the practical details of his intended profession. We have his own authority for the statement that at some time during this

[<sup>1</sup> For a brief genealogical reference to this family, see the *MAGAZINE*, vol. v. p. 453, and vol. vi. p. 332; and, for fuller information, Mr. Balch's *Shippen Papers*, and Mr. Keith's *Provincial Councillors of Pennsylvania*.—ED.]

<sup>2</sup> Dr. Charles Caldwell, *Portfolio*, 1810.

*Edward Shippen.*

period he drafted with his own hand the first "common recovery" ever suffered in Pennsylvania,<sup>1</sup> and it was no doubt by just such practical experience as this that he laid the foundation of that extensive and useful knowledge of Pennsylvania precedents for which he was afterwards so justly noted.

But, however thoroughly the practical details of a lawyer's business might be acquired in Pennsylvania, there was at that time little or no chance for a student to become familiarly acquainted with the more abstruse parts of his profession, the great underlying principles of English jurisprudence, and their application to controversies between man and man. Books were scarce, and well-trained lawyers few. Beside Tench Francis, John Ross and John Moland were the only counsel of note at the bar. Nor was the bench much better supplied, so that cases were too frequently settled according to the untutored dictates of natural justice rather than by the fixed and immutable principles of law. It was, therefore, determined that Mr. Shippen, having spent two years in the pursuit of his legal studies, should complete them under more favorable auspices, that he should be entered regularly at one of the London inns of court, and by pursuing the course of studies then in vogue should duly qualify himself for admission to practice as a barrister.

With this intent Mr. Shippen in 1748 sailed from Philadelphia. An interesting account of his voyage and arrival in London will be found in the following extract from a letter written by him to his brother Joseph shortly after his arrival:—

"LONDON, Feb. 25th, 1748-9.

Dear Joe . . . You desire that I should give you a particular account of my voyage, which I shall do with the greatest pleasure, though the narration may not be altogether so agreeable as you could wish. For eight days after we left the Capes we had as fine winds and pleasant weather as one could possibly desire, in which time we had run to the outermost part of the Banks of Newfoundland, something above a third part of our passage; the eighth day, about nine o'clock, we had a storm come on from the northwest so sud-

<sup>1</sup> Morris's Lessee v. Smith, 1 Yeates, 238-244; Lyle v. Richards, 9 S. & R. 322-332.

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denly that we could not possibly get our sails furled time enough to prevent the violence of the wind from tearing our mainsail and foresail all to pieces. The maintop yard was lowered and the sail furled but the fury of the wind drove the yard from its proper place quite up to the head of the maintop-mast, blew the sail loose and made it stand abroad like a vane. We continued in this situation for about an hour, without any further damage, when the gale increased to such a degree, that we could not by any means keep the ship before the wind, but she violently broached to, and we must have inevitably gone to the bottom, had not the captain very seasonably cut away the mizzen-mast, which brought her to rights. Some time after this, the wind raged still more and obliged the ship, notwithstanding the loss of our mizzen-mast, to broach to a second time, and now we had lost all hopes and thought that nothing less than a miracle could save us from the impending ruin. The ship lay on her beam ends, so that one could sit straight up on her side and we expected every moment to perish. The sailors were so disheartened that they would not work a stroke, but quitted the deck, every man but one, and retired to their cabins to pray. After lying some time in this melancholy posture, we had the good fortune to have our maintop-mast with the head of our mainmast blown away ; which took away so much of the power of the wind over us, that we righted once more, and got before the wind and thus we continued, exposed to the mercy of the winds and seas, till about six o'clock in the morning, when we found the storm somewhat abating, and, in about two hours afterwards, we had but a very moderate gale. But to have seen the havoc that was made upon deck and the miserable plight we were reduced to from the loss of our sails and masts and the shattered condition of everything about us would have made men of more philosophy than any of us feel concerned, even after the abatement of the wind. But, thank God, this terrible storm was succeeded by three or four days of very fine weather, which gave us time to mend our sails and put ourselves in as good a posture for proceeding with the voyage as could possibly be expected from people in our condition, yet we thought ourselves so unfit to enter into the English channel, that we consulted several times whether it was not most proper to put into Lisbon to refit. But the captain's opinion prevailed that we should stand for the channel and put into the first harbor in England, in case it should be thick or stormy weather. So we proceeded and arrived safe in the Downs the twenty-seventh day after we left the Capes. We landed at Deal and

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took coaches for London, where we have had the pleasure of congratulating one other upon our deliverance. . . . Since I have been in London I have enjoyed a very good state of health and have spent some time in seeing all the curiosities of this populous city, which I shall forbear to particularize at present. The relation will serve to pass an hour or two of our winter evenings when we get together again.

Give my love to mammy, and tell her I have her often in my mind, and wish she could mention anything that would be agreeable to her from hence. I should take great pleasure in supplying her.

Remember me kindly to Uncle Billy and his family, Mr. Willing and his family, Billy and Jemmy Logan, Tommy Smith, and all friends; and, dear Joe, accept my hearty love to yourself, and believe me your very loving and affectionate brother,

EDWD. SHIPPEN, JR."<sup>1</sup>

The London to which Mr. Shippen was now introduced must indeed have been a new world to him. The treaty of Aix-la-Chapelle had just been concluded, and the town was full of the fêtes and rejoicings incident to the return of peace.

As he went down to the Great Hall at Westminster he must have seen figures passing and repassing whose memory he must have loved to dwell upon in maturer years. There turning his steps to the House stalked Mr. Speaker Onslow, with ponderous wig and gown, Pelham the prime minister of the realm, the uncouth, unwieldy form of the Duke of Newcastle, and the lithe active figure of a certain late cornet of horse, then paymaster-general of the forces, no less a person than the future Lord Chatham. Here striding in with nervous energy was a shrewd Scotchman who, any bystander could have informed him, was the Solicitor-General, Mr. Murray, the great Lord Mansfield yet to be. There too were Henry Fox and Charles Townshend, and a score of others whose names were within a single decade to be coupled either with execrations or with blessings by American lips.

Crossing to the other side of the Great Hall, he no doubt saw Chief-Justice Lee in the King's Bench and Lord Hard-

<sup>1</sup> Balch's *Shippen Papers*, p. 13.

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wicke, the father of English Equity Jurisprudence, in the marble chair.

Outside in the streets he beheld the very scenes of which Hogarth has left us the imperishable memorials. The gaols were full to repletion of Jacobite prisoners. But two short years before Lords Kilmarnock, Lovat, and Balmerino had lost their heads on Tower Green, and those blackening trophies of vengeance empaled on the spikes of Temple Bar must often have attracted his eye as he went to and forth from his lodgings.

If he sought the more fashionable part of the town, he may have seen Mr. Horace Walpole, or Mr. George Selwyn, idly sauntering along to White's, or in the Park he may have met the great Lord Chesterfield, the Duke of Cumberland (Billy the Butcher, as the Jacobites called him), Lady Mary Wortley Montague in her chair, or perhaps Mr. Garrick refreshing himself by a stroll for Macbeth, or King Richard the Third, in the evening.

Notwithstanding the many attractions by which he was surrounded, Mr. Shippen did not fail to maintain a lively correspondence with his family at home. The following letter to his brother-in-law James Burd is of interest, both on account of the amiable light in which the character of the writer is displayed, and the glimpse we catch of the Paris of a century and a half ago:—

“LONDON, 1st August, 1749.

DEAR JEMMY

Your kind Fav<sup>r</sup> via Ireland I received, containing the agreeable acct of Sally's Delivery with the Welfare of herself and little one which demands my hearty Congratulations. I sincerely wish the dear Infant may prove a Blessing and Lasting pleasure to you both. If you can convey my Blessing to it by a Kiss, pray give it an hearty one immediately. I am highly pleased with your Smoothing-Iron over the Disappointment (as you call it) of a nephew. I have attempted a French Letter to Sally as I suppose she would naturally expect one from a Brother just return'd from France. If she has time to spare from attending my little niece and has not forgot her French I make no Doubt she will try an ans<sup>r</sup> in the same Language.



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You acquaint me of your acting a play the last Winter to the Satisfaction of all Spectators. I am glad that Spirit is kept up, because it is an amusement the most useful of any to Young People and I heartily wish it would spread itself to y<sup>e</sup> younger Sort, I mean School Boys. For I think there is no method so proper to teach them Grace of Speech and an elegant Pronunciation and withal there is nothing that emboldens a Lad and rids him of his natural Bashfulness and fear so much as this. I now feel more concern on account of the Education of Youth in my own Country than ever I did. I see how much we are defective in opportunities to give them Learning and how much we are excelled by those in Europe. As you are beginning to be master of a Family there I make no question but Thoughts on this Subject frequently occur to your mind.

I am glad to hear that all our Ships that went for Philadelphia this Spring are arrived but Mesnard, and am still gladder on your acco<sup>t</sup> that there is a good Sale of Goods. I doubt not you will be able to manage your affairs so as not to give Cause of Complaint to any gentleman here.

I am lately return'd from making a short Trip into France. I think a man that comes to England to see the World is inexcusable in peaceable times if he does not visit that metropolis of the polite World. I have been entertained with an Hospitality and Politeness quite answerable to the general character of that nation. Paris is a beautiful City. The Houses all built with a fine white Stone and covered with Slate make a charming appearance.

The public Buildings exceed those in England vastly, especially the Palaces. Versailles is very justly the pride of France and admiration of the whole World. Painting, Sculpture, Architecture and all the Polite Arts flourish greatly in that Kingdom. There is so much Encouragement for these things that many People imagine France will in a little time be the center of the Arts and Sciences. She increases daily and if England is not cautious she may take from us something more than the Arts and Sciences.

I suppose Capt. Stupart will be sail<sup>d</sup> before this reaches you. If not, I desire my compliments to him, and dont forget me to all Relations and Friends. Mr. Lardner, Mr. Elliot, Mr. Smith, Mr. Trotter & Mr. Kidd are in the number of these. Give my Love particularly to Uncle Billy. I pray God bless you and am

Your affectionate Brother,  
EDWD. SHIPPEN, JR.<sup>1</sup>

<sup>1</sup> Original in possession of Chas. R. Hildeburn, Esq.

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To return, however, more particularly to Mr. Shippen's career. He had within a month or so after his arrival in London been duly entered as a student of law at the Middle Temple. The character of his studies and the nature of his prospects may be learned by the following extract from a letter written by him to his father:—

“LONDON, Jan. 23, 1749–50.

I have according to your desire visited Mr. Richard Penn, who made me very welcome, and yesterday I had the honour of dining with him. . . . I am sorry that I have to inform you that I am disappointed in my expectations of being called to the bar at this term; the occasion of it I could not possibly prevent. Every student before he comes to the Bar is obliged to perform six vacation exercises, three candle-light exercises and two new-ium exercises which he is not allowed to do alone but must join with another student. I had calculated matters so as to have performed them all before the end of this term; but, unluckily for me, the gentleman who was my companion in the exercises, having some engagements in the country, could not attend at the time appointed for the performance of one of the vacation exercises, which obliged me to defer that duty until next vacation, so that it will be Easter Term before I can be possibly called, unless I consent to compound for vacation exercises, which would cost me near twenty pounds. I know, sir, that you expect me to leave England by March or February, which makes me at a loss how to act. But I am reduced to the necessity of either returning home without being made a barrister, and so making all my expenses at the Temple useless, or of prolonging my stay in England two or three months. The former I am sensible would not be so agreeable to you, and since I have gone so far at the Temple, I believe I must stay and see it out and depend on your goodness to send me about £30 upon my coming away. According to my calculation, that amount, together with the money you have already favored me with, and the £20 you order Storke to let me have will suffice with frugality to maintain me till my departure and defray the expenses of my being called to the bar. All that I shall then want further will be some £30 or £40 for my gown and tie wig, a suit of clothes, my sea-stores and passage. Easter Term is in May, but I cannot take the oaths until about the middle of June, after which I shall leave in the first vessel. In the mean time, I hope you

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will furnish me with the money necessary to complete my affairs with advantage and to quit England with credit."<sup>1</sup>

He succeeded, however, in completing his studies earlier than he had anticipated, for he was duly called and took the necessary oaths in the early part of May, and on the seventh of that month wrote to his father as follows:—

"I am preparing for my voyage in Capt. Adams — who talks of sailing next week; we have all the prospect in the world of an agreeable passage, having a good lot of company, a fine ship and the best season of the year."<sup>2</sup>

Mr. Shippen had, according to his expectation, a favorable return passage, and almost immediately upon his arrival addressed the following letter to his father:—

"PHILADELPHIA, June 8, 1750.

Hon'd Sir. My Mind has been much employed for about a Twelvemonth past about an affair, which, tho' often mentioned to you by others, has never been revealed by myself, and, as I can now no longer bear the anxiety of mind which a state of suspense in matters of consequence is always attended with, I must open myself to you and beg your best advice and assistance. Miss Peggy Francis has for a long time appeared to me the most amiable of her Sex, and tho' I might have paid my Addresses, possibly with success, where it would have been more agreeable to you, yet as Our Affections are not always in our Power to command, ever since my Acquaintance with this young Lady I have been utterly incapable of entertaining a thought of any other. I know, Sir, your Sentiments of these matters are more than usually generous and therefore I can with the greater Confidence ask your consent in this Affair, especially when I assure you 'tis the only Thing can make me happy. If I had obtained a Girl with a considerable Fortune, no doubt the world would have pronounced me happier, but, as in my own Notion, Happiness does not consist in being thought happy by the World, but in the internal Satisfaction and Contentment of the mind, I must beg leave to say I am a better Judge for myself of what will procure it than they: yet I am not so carried away by my Passion as to exclude the considera-

<sup>1</sup> Balch's *Shippen Papers*, 17.

<sup>2</sup> Shippen Papers, MS. In the collection of the Historical Society of Pennsylvania.

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tion of money matters altogether; without a Prospect of a comfortable subsistence, 'tis madness to marry. That Prospect I think I have. With a little Assistance in setting out, my Business, with Frugality, can't fail to maintain me, and a bare support with one I love is to me a much preferable State to great affluence with a Person one regards with indifference. Be pleased, Sir, to let me know your sentiments of this affair as soon as possible. For tho' I might not press a very speedy conclusion of it, yet I am anxious to know my Fate.

I am Dear Sir

Your Very affectionate  
and dutiful Son  
EDWARD SHIPPEN, JUNR."<sup>1</sup>

Some difficulties ensued in relation to the marriage settlements, which were, however, speedily overcome; and the engagement of Mr. Shippen to Miss Peggy Francis was in the following autumn announced.

Meantime his natural talents, family connections, and the prestige of his London education secured for him a fair share of business. In the Docket of the Supreme Court for September Term, 1750, the following entry occurs:—

"On the 25<sup>th</sup> Sept<sup>r</sup> 1750 Edward Shippen Jun<sup>r</sup> Esq<sup>r</sup> produced his certificate from the Treasurer of the Middle Temple that he is utter Barrister of the Society of that Temple which was read."<sup>2</sup>

We have some reason also to conclude that shortly after this time he was retained in some cases of note.

On the 22d of November, 1752, Mr. Shippen received the appointment of Judge of the Vice-Admiralty Court—a station of some importance and considerable pecuniary value.<sup>3</sup> The admiralty court-house in which he now heard causes was situated over the market at Third Street at some little distance from the other Provincial courts, as though to mark the difference of jurisdiction and practice existing between

<sup>1</sup> Shippen Papers, MS. In the collection of the Historical Society of Pennsylvania.

<sup>2</sup> Supreme Court Docket, Sept. 24, 1750, to Sept. 29, 1750, p. 32.

<sup>3</sup> 4 Penn. Arch. 600; 2 Proud's Hist. of Penna. 291; Gordon's Penna. 628, App.; 8 Col. Rec. 171; *Vasse v. Ball*, 2 Yeates, 178-182.

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them.<sup>1</sup> These advances in wealth and dignity now prompted Mr. Shippen to take another and most important step in life. He was on the 29th of November, 1753, married to Margaret the daughter of his former preceptor Mr. Francis. His wife brought him a dowry of £500, part of which he expended in extending his library. His father at about the same time presented him with a house on Walnut Street in which he began his married life.<sup>2</sup>

Meantime his reputation for ability and prudence seems to have been steadily and surely on the increase. In April, 1756, the perpetration of a fiendish Indian massacre in the western part of the State had lashed the people into a great commotion. An indignant and tumultuous crowd gathered at Lancaster clamoring for vengeance and setting at naught the efforts of the local authorities to control their passion within reasonable bounds. The Governor accordingly, on the 15th of the month, dispatched a commission to these people to persuade them quietly to disperse. Of this commission Mr. Shippen was one. Its mediation was entirely effectual, for upon its appeal the mob separated at once without further trouble.<sup>3</sup>

On October 7, 1755, Mr. Shippen was chosen as a common councilman of the City of Philadelphia,<sup>4</sup> and on May 27, 1758, was elected town clerk, and also clerk of the council.<sup>5</sup> These offices he retained until the Revolution.

Of the kind of life then led in Philadelphia we catch various glimpses in his letters to his father who was then Prothonotary at Lancaster. The following extracts are selected from a large mass of business correspondence, in the main hopelessly dry and unentertaining:—

“Jan. 17, 1755.

As to a Book of Precedents for Writs I know of no such things in English. I have an exceeding good one in Latin

<sup>1</sup> 1 Forum, 264, note.

<sup>2</sup> Letter, Edw. Shippen, Jr., to his Father, Sept. 14, 1753. Shippen Papers MS, in Collection of Hist. Soc. of Penna.

<sup>3</sup> 7 Col. Rec. 93.

<sup>4</sup> Minutes of Common Council, Oct. 7, 1755.

<sup>5</sup> Minutes of Common Council, May 27, 1758.

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called *Officina Brevium*, but as I have daily occasion for it I cannot possibly spare it out of my office, besides it is a science to understand the Law Latin. I cannot think you have any sort of occasion for such a Book, as the Lawyers whenever they want a writ of a special nature draw it themselves."<sup>1</sup>

"April 8, 1756.

The sore throat has run through the whole town; many have had it very dangerously. The way of treating it that is most successful is to bleed very freely upon the first symptoms appearing, to use a Gargle of Sage Tea, Honey and Vinegar, to take strong purging Pills, if the Throat is well enough to let them down which mine was not, so that I was obliged to put up with liquid purges. If there is like to be a gathering which will break or require to be lanced, leave off the Purges and the vinegar out of the Gargle and wait the event, taking warm diluting drink and keeping the parts very warm. Relapses are brought on with the very least cold."<sup>2</sup>

"March 30, 1758.

The Doctor (William Shippen) has been at Princeton these 2 months; he has inoculated great numbers there for the small pox. The President, Mr. Edwards, died; otherwise he has been very successful."<sup>3</sup>

"Oct. 9, 1760.

I have enquired at all the Booksellers' shops for Garth's *Metamorphoses* and Trap's *Virgil*, but can get neither. I had Ovid's *Metam.* translated into English verse by several Hands in two volumes, which I would have sent you, but can find only one volume. . . . I have got your clothes from Cottringer. Jerry Warder promises to have your Hat done to-morrow and so does your Joyner the Table and the Box. . . . I formerly had Dryden's *Virgil* in English verse. I thought you had it."<sup>4</sup>

Like most Americans of his time Mr. Shippen was extremely proud of the prowess of the Provincial troops, and it was with singular interest that he watched and recorded every occasion when they won the laurels of the day. "The New England Men," he wrote to his father on March 13, 1755-6, referring to their services in Acadia and about Lake George, "are now esteemed the champions of the American

<sup>1</sup> Shippen Papers MS., in Collection of Hist. Soc. of Penna.

<sup>2</sup> Ibid.

<sup>3</sup> Ibid.

<sup>4</sup> Ibid.

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World.”<sup>1</sup> “Bradstreet your countryman,” he writes again on Sept. 15, 1758, after the gallant capture of Fort Frontenac, “has done bravely. Saying Provincials are worthless troops won’t go down, now; and the story that the repulse at Carillon was owing to the backwardness of the irregulars, won’t be believed in England when they hear that an American, with about 3000 Provincials marched into the very heart of an enemy’s country and took a Fortress which is the very key to all the French settlements on the Lakes.”<sup>2</sup>

But, notwithstanding these natural sentiments of pride, Mr. Shippen like many others of peaceable and conservative disposition looked with horror upon the widening gap between the colonies and the mother country. Keenly alive to the tyranny to which he in common with his countrymen was subjected, he could see no remedy, which, in his estimation, was safe, and most particularly deprecated the making of a resistance which it seemed to him must inevitably prove futile. He thus writes to his father, concerning the insolent and overbearing conduct of General Braddock relative to the supplies for his expedition:—

“PHILADELPHIA, March 19, 1755–6.

The Governor has laid before the Assembly a most alarming letter from General Braddock, which charges them in strong terms with faction and disaffection . . . and lets them know that he is determined to obtain by unpleasant means, what it is their duty to contribute with the utmost cheerfulness. The Assembly know not how to stomach this military address, but ’tis thought it will frighten them into some reasonable measures, as it must be a vain thing to contend with a General at the head of an army, though he should act an arbitrary part; especially as in all probability he will be supported in everything at home.”<sup>3</sup>

An additional incentive for entertaining these sentiments was afforded him by his appointment on September 24, 1765,<sup>4</sup> as Prothonotary of the Supreme Court, an office which does

<sup>1</sup> Balch's *Shippen Papers*, 34.

<sup>2</sup> Shippen Papers, Collection of Hist. Soc. of Penna.

<sup>3</sup> Balch's *Shippen Papers*, 35.

<sup>4</sup> Martin's Lists in Library of Hist. Soc. of Penna.



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not seem to have been inconsistent with the discharge of his judicial duties, and which certainly did not prevent his attending to the details of a rapidly growing practice.

The next year came the news of the repeal of the Stamp Act, a measure which afforded Mr. Shippen sincere joy as promising to effect a reconciliation between the colonies and the mother country. The news arrived in Philadelphia on April 6, 1766, and he thus concludes a letter to his father of that date: "I am stopt short with the joyful news of the Stamp Act being repealed. I wish you and all America joy."<sup>1</sup>

In 1770 Mr. Shippen suffered a great decrease in the amount of revenue which he derived from his judicial position. His remuneration consisted entirely of fees levied upon the various suitors, and of course was increased or diminished in proportion as the business was abundant or scanty. In this year Jared Ingersoll received the appointment of Commissioner of Appeals in Admiralty, and accordingly set up a tribunal which seems to have been of co-ordinate jurisdiction with the Vice-Admiralty Court, and to have drawn away most of the causes from it.<sup>2</sup>

On December 12, of the same year, Mr. Shippen had, however, the satisfaction of being nominated as a member of the Provincial Council,<sup>3</sup> a station in which he served the Province faithfully for nearly five years, as the minutes of that body will show.

The renewed troubles with the ministry in England were now viewed by Mr. Shippen with increasing apprehension and distress. As far as can be ascertained he took no part in any of the popular measures on behalf of the colonial cause. Quietly discharging the routine of the offices which he held, he preferred to stand aloof from the scenes of excitement about him and to await the event of the collision between the colonies and the mother country which now seemed every day more imminent. One curious result of the

<sup>1</sup> Shippen Papers, Collection of Hist. Soc. of Penna.

<sup>2</sup> Martin's Lists in Library of Hist. Soc. of Penna.

<sup>3</sup> 9 Col. Rec. 704.

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discontinuance of the use of tea by the American people is noted in the following extract from a letter to his father:—

“April 20, 1775.

Peggy has searched every Shop in town for a blue and white China Coffee Pot, but no such thing is to be had, nor indeed any other sort that can be called handsome. Since the disuse of Tea great numbers of People have been endeavoring to supply themselves with Coffee Pots. My Brother, having no Silver one, has taken pains to get a China one, but without success.”<sup>1</sup>

At length the Revolution came, bringing with it a train of evils to all those who were unfortunate enough to entertain opinions like Mr. Shippen's. He was of course at once deprived of his offices and dignities, nor did the troubled nature of the times and the great mercantile and financial depression and distress allow him much opportunity to continue the practice of his profession. Mistrusted by the authorities of the State, he was by order of the Supreme Executive Council placed on his parole to give neither succor nor information to the enemy, and was bound with sureties not to depart further than a limited distance from his home.<sup>2</sup> “I intended to have visited you this summer,” he writes to his father on July 12, 1777, “but the Test Act stands in my way.”<sup>3</sup> The following very interesting letters to his brother-in-law, Jasper Yeates, express clearly his political views during the early stages of the war:—

“19th Jan'y 1776.

Dear Sir, I inclose you the bill for your settee and chair which Mr. Fleeson thought it necessary to accompany with an apology on acct of its being much higher than he gave Mrs. Shippen reason to expect it would be; he says every material which he has occasion to buy is raised in its price from its scarcity and the prevailing Exorbitance of the storekeepers.

I thank you for the trouble you have taken about Tush and Crawford. If I do not find a safe opportunity of sending

<sup>1</sup> Shippen Papers, MS., in Library of Hist. Soc. of Penna.

<sup>2</sup> 11 Col. Rec. 269.

<sup>3</sup> Shippen Papers, in Library of Hist. Soc. of Penna.

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up Tush's bond before your next Court I shall do it then. I find the practice of taking securities in silver dollars is becoming common. The Trustees of our college as well as other people have done the like and I dont find it is like to give any uneasiness.

The repulse our troops have met with at Quebec, with the death of Montgomery and the loss of all Arnold's men give us but little reason to expect a reduction of Canada this winter. However, the Congress have ordered five or six regiments to be sent there immediately. We have had Lord Drummond with us for about a fortnight. He left England in September, and was so much with Lord North and others of the administration before his coming away, that he appears to know all the designs of the ministry respecting America. He has had many free conversations with several gentlemen of the Congress since his arrival, and I hope with some effect. He tells us the ministry see the destructive consequences of the present contest in its fullest light and are extremely desirous to have an end of it, that they would gladly receive any proposals from America which had the least tendency to produce an accommodation, and would even dispense with forms and receive them from the Congress, but that they apprehend the loss of America unless they make vigorous efforts next summer, which they will most certainly do. He thinks that before any blow is struck terms will be held out by the General which will be mild, but, if not accepted, any Exertion is to be dreaded. He advises the Congress to send gentlemen over immediately to treat, as the surest means both to preserve their own consequence and to serve America, as he thinks it probable the Colonies may divide about the propriety of accepting the terms which will be offered when the Army comes over, in which case the Congress will be in danger of being forsaken. Whatever the Congress may do I dont find any disposition for sending over persons to negotiate. I am told, however, a majority are for moderation, but how long this will last is uncertain, as every unlucky event inflames and every successful one elates.

A Book called Common Sense, wrote in favor of a total separation from England, seems to gain ground with the common people; it is artfully wrote, yet might be easily refuted. This idea of an Independence, tho' some time ago abhorred, may possibly by degrees become so familiar as to be cherished. It is in everybody's mouth as a thing absolutely necessary in case foreign troops should be landed, as if this step alone would enable us to oppose them with success. A Gentleman

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of some weight in the Congress told me, he wished some of the country committees and other public bodies would somehow or other signify their disapprobation of an Independence as a step that would strengthen the hands of the advocates for a reconciliation in the Congress. I am told the Convention of Maryland are about something of that sort, and you must have observed the instructions of the people of New Hampshire to their delegates in the Provincial Congress run in the same strain.

My Best love to Sally and all the family.

I am D<sup>r</sup> Sir

Y<sup>r</sup> Very affectionate Hble Serv.

JASPER YEATES, Esq.

EDW. SHIPPEN, JR.<sup>1</sup>

" 11th March, 1776.

DEAR SIR:

I received your favor of the 19<sup>th</sup> Feby inclosing £29-7-0 for Mr. Benezet. . . . The dullness of business obliges one to think of collecting ones demands in order to keep ones receipts upon an equality with the current expenses of Housekeeping.

Since the Resolution of the Assembly to increase the number of members I find some of the leading men of your county are very anxious that you should be one of the new members to be elected the first of May. . . . There is certainly a design on foot to reduce the affairs of this province to as great a state of anarchy as will put us on a level with some of the colonies to the Eastward; it therefore seems the part of every good citizen to afford a helping hand to support our tottering constitution. The scheme of the Convention was principally to get Andrew Allen and a few other good men removed from the Congress; they have stood forth and dared to expose the designs of the cunning men of the East, and if they continue members of Congress will prevent this province from falling into their favorite plan of Independency. This will probably be a summer of events, and, if you can think it any way consistent with the good of your private affairs to go into the Assembly for this year or at least till the first of October, I believe it would be very agreeable to all your friends, both here and in your own County, who all think that at this time you may be particularly useful. You, however, can judge better for yourself than any other person.

I am D<sup>r</sup> Sir your very affectionate humble Serv<sup>t</sup>

EDW. SHIPPEN, JR.<sup>2</sup>

<sup>1</sup> Original in the possession of Chas. R. Hildeburn, Esq.

<sup>2</sup> Ibid.

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As the war went on Mr. Shippen found his position in Philadelphia growing more and more disagreeable. He finally, therefore, withdrew with his family to his country place near the Falls of Schuylkill, and remained an impassive spectator of the great public events transpiring around him. How he thought and felt at this period is most graphically set forth in the following extracts from letters to his father, written by him in the early part of the year 1777:—

“ Jan. 18, 1777.

Your condition with regard to the income of your offices is to be lamented, and the only consolation you can have is that everybody else is in the same situation. How long matters may thus continue cannot be known, yet I think another summer must necessarily show us our fate. If the war should continue longer than that, we are all ruined as to our estates, whatever may be the state of our liberties. . . . The scarcity and advanced price of every necessary of life makes it extremely difficult for those who have large families, and no share in the present measures, to carry them through, and nothing but the strictest frugality will enable us to do it. . . I live near the Falls of Schuylkill, a very clever retired place, yet am in daily apprehension of every house in town being filled with soldiers, which has been the fate of all which have been left empty. In order to prevent this I now go to town almost every day, that I may be seen in and about my house, which is constantly opened every day, and has all the appearance of being inhabited, and is really lodged in by two or three women every night. By this means I hope to escape the mischief. . . . I have lately had an affliction of another kind. My Son Neddy was sent on an errand by his master into Jersey, where he staid longer than his business required. In order to avoid being pressed in the militia service, when General Howe had advanced as far as Trenton and it was thought he was making his way to Philadelphia, Neddy was prevailed upon by Johnny, Andrew and Billy Allen, to go with them to the British army, which he accordingly did, and was civilly received there by General Howe and the British officers. His companions soon after went to New York, and Neddy remained at Trenton. When the attack was made on the Hessians there, he was accordingly taken prisoner by our army and carried, with others, to General Washington, who, after examining his case, and finding that he had taken no commission nor done any act that showed him inimical, very kindly discharged him, and he is now

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with us. Though I highly disapproved of what he had done, yet I could not condemn him as much as I should have done, if he had not been enticed to it by those who were much older, and ought to have judged better than himself."<sup>1</sup>

" March 11, 1777.

The complexion of the times is still bad. I know not when there will be any alteration for the better. I mean that peace (the most desirable of all human conditions) seems at as great a distance as ever. General Howe in all probability will be in Philadelphia in a month or two, having been reinforced (as it is said) at Brunswick, and General Washington's army in no condition to prevent him, but his coming to Philadelphia will only be the introduction of all the calamities of war in Pennsylvania. Philadelphia will be as a place besieged by the American army, and the country will be laid waste by the two contending parties. In this dreadful situation of affairs I am at a loss to know how to dispose of my family. Advantages and disadvantages present themselves by turns, whether I determine to remain in Philadelphia or remove to a distance. Your situation is better; you are already at a distance from the seat of war, and may remove still further if necessary, yet no situation is actually exempt from the possibility of danger. We must make the best of it. I presume your office will get into other hands. . . In these times I shall consider a private station as a post of honor, and, if I cannot raise my fortune as high as my desires, I can bring down my desires to my fortune; the wants of our nature are easily supplied, and the rest is but folly and care."<sup>2</sup>

When the British took possession of Philadelphia, Mr. Shippen returned with his family to town, and was on terms of intimacy with many of the officers of the British army. His daughters, particularly the youngest, were much flattered and admired, and were considered among the chief belles of the place. Their father, it is true, declined to allow them to attend the "Meschianza" after all their preparations were made; but this, there is reason to believe, should be attributed to a just feeling of shame on his part at the indelicacy of the costume in which they were expected to appear, rather than to any unwillingness to allow them to take part in the festivities of an enemy.

<sup>1</sup> Balch's *Shippen Papers*, 254.

<sup>2</sup> *Ibid.* 256.

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When the Americans again took possession of Philadelphia, Mr. Shippen remained in town. He now found it, however, with his straitened means, very difficult to support the expenses of his family. All kinds of foreign merchandise were almost out of the market, or if for sale only at ruinous prices. On July 3, 1778, he writes to his father:—

“I have sent you by Mr. Yeates half a dozen pounds of chocolate, but I am afraid it will be very difficult to procure Madeira wine at any price; the only pipe I have heard of for sale was limited at eight or nine hundred pounds . . . There is no such thing as syrup, the sugar bakers having all dropped the business a long while. It is possible after some time there may be an importation of French molasses; if so, I will try to get you some.”<sup>1</sup>

And again on December 21, of the same year, he writes to the same correspondent:—

“I shall find myself under the necessity of removing from this scene of expense, and I don’t know where I could more properly go than to Lancaster. The common articles of life, such as are absolutely necessary for a family, are not much higher here than at Lancaster; but the style of living my fashionable daughters have introduced into my family and their dress will, I fear, before long oblige me to change the scene. The expense of supporting my family here will not fall short of four or five thousand pounds per annum, an expense insupportable without business. . . . I gave my daughter Betsy to Neddy Burd last Thursday evening, and all is jollity and mirth. My youngest daughter is much solicited by a certain General<sup>2</sup> on the same subject; whether this will take place or not depends upon circumstances. If it should, I think it will not be till spring. What other changes in my family may take place to forward or prevent my removal from Philadelphia are still uncertain.”<sup>3</sup>

These plans, however, he was destined never to carry out. When peace was once more established, and the independence of the United States assured, there was at once an imperative necessity for honest and capable public officers; and so uni-

<sup>1</sup> Balch's *Shippen Papers*, 266.

[<sup>2</sup> Benedict Arnold, whom Miss Shippen married the following April.—Ed.]

<sup>3</sup> *Ibid.* 268.



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versal was the regard and respect in which Mr. Shippen was held, that, notwithstanding the sentiments he had entertained during the Revolution, he was, with the general approbation of the community, called once more to assume the judicial chair.

On May 1, 1784, he was appointed President Judge of the Common Pleas of Philadelphia,<sup>1</sup> an office in which he so conducted himself as to give the public every cause for satisfaction.

On September 16, 1784,<sup>2</sup> he was appointed Judge of the High Court of Errors and Appeals, for which office he duly qualified on September 21,<sup>3</sup> and which he retained until the abolition of the Court.

But the remuneration derived from these offices was small. For the latter he was paid but a pound a day for every day's actual attendance in court, and we know that between the time of his appointment and the 3d of October, 1785, he received in this way but £59.<sup>4</sup> He thus writes to his brother Joseph about his affairs on New Year's day, 1785:—

"I am not yet absolutely settled in my future plan of living. They have put me into an office which yields me comparatively nothing, and I cannot afford to continue in it unless some allowance be made. The matter is before the Assembly, who seem willing to do something . . . I have the strongest assurances that it shall be pushed at the next meeting of the Assembly. Should it fail, I must betake myself again to my practice . . . it being impossible to support a family in this expensive city without some profitable business."<sup>5</sup>

In the autumn of 1785, he consented at the solicitation of his friends to be nominated for the office of Justice for the Dock Ward of Philadelphia. The following is the account of the election which he wrote to his brother Joseph:—

"Oct. 2, 1785.

The inhabitants of this district have seen fit to elect me a magistrate, tho' without my solicitation or even wish to

<sup>1</sup> 14 Col. Rec. 103, 1 Dall. 76.

<sup>2</sup> 14 Col. Rec. 207.

<sup>3</sup> Id. 210.

<sup>4</sup> 16 Col. Rec. 534.

<sup>5</sup> Shippen Papers MS., in Library of Hist. Soc. of Penna.

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accept it; but, as I found an earnest desire in the people to choose some person who might be of use in the magistracy, and also to set an example to the other districts in future, I was prevailed upon to consent to their running me in the Ticket, and though a strong interest was made very early in favor of a Mr. Dean, a Militia Colonel, yet the Gentlemen of the Ward turned out so very generally, that I was elected by a great majority of votes. Tho' I dislike the business and know it will be burthensome, I shall, however, undertake it in Expectation that, having been in this instance the choice of the people, I may be in the way of something more to my mind."<sup>1</sup>

On October 3 he was duly commissioned,<sup>2</sup> and on the following day received an appointment as President of the Court of Quarter Sessions of the Peace and Oyer and Terminer.<sup>3</sup> Both these positions were, however, so irksome to him, that on November 20, 1786, he presented his resignation from them both,<sup>4</sup> which was duly accepted on the 5th of the following December.<sup>5</sup>

Judge Shippen at this period lived on the west side of Fourth Street near Prune, and kept up apparently an establishment of some pretensions. Like many other Pennsylvanians of his day, he was a slave-holder. He writes to his brother Joseph on September 17, 1790:—

"I have some thoughts of parting with my black man Will; he is my coachman, but not so careful as my other servant; he is, however, sober, and I believe tolerably honest, and a strong healthy fellow, who can do a variety of work; his greatest fault is being rather an eye servant. . . . As I believe you are in want of help, I would let you have him, either to buy or hire, or, if you would like to have him some time on trial, I would have no objection. I think his age is about 32. He cost me £100. You may have him for half that sum."<sup>6</sup>

So satisfactorily did Judge Shippen discharge the duties of his office in the Common Pleas, that on January 29, 1791, he

<sup>1</sup> Shippen Papers MS., in Library of Hist. Soc. of Penna.

<sup>2</sup> 14 Col. Rec. 548.

<sup>3</sup> Id. 549.

<sup>4</sup> 15 Col. Rec. 130; 11 Pa. Arch. 91.

<sup>5</sup> 15 Col. Rec. 138.

<sup>6</sup> Shippen Papers MS., in Library of Hist. Soc. of Penna.

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was made an Associate Justice of the Supreme Court of the State,<sup>1</sup> an office in which he so conducted himself as to win still more respect and confidence from the community. The following letter to his brother-in-law Jasper Yeates, in reference to the Whiskey Insurrection, shows the lively interest which he took in public affairs:—

“Philadelphia, 6th August, 1794.

DEAR SIR:

The alarming Conduct of the Inhabitants of the Western Counties seems to reduce the general Government to the Dilemma either of risking a civil Commotion by the use of an armed force, or of submitting to the subversion of the Law and of Course to the prostration of the Government of the United States. In this situation the President has conceived the design of sending some respectable Commissioners to meet the inhabitants at a general meeting, which it seems is called by themselves on the 14th of this month, there to represent to them the dreadful consequences of their perseverance and to urge them to a Submission to the Laws, on promises of an amnesty for what is past. I have been asked whether I thought you would consent to be one of those commissioners, some confidence being placed in your negotiatory talents, as well as in the general good opinion entertained of you in that County. All that I could say was that I knew in general your good wishes in favour of the Support of the general Government, and that I did not doubt, if it could at all consist with the situation of your private affairs, you would not hesitate to contribute to a work of such magnitude, especially if your associates were made agreeable to you. On this idea Mr. Bradford has consented to be one, and I believe Mr. James Ross of Washington is expected to be the third. I am requested to represent this matter to your consideration by letter. There certainly has not been a Crisis when the Exertions of every influential Citizen could be so useful—no less perhaps than saving the effusion of some of our best blood.

I am Dear Sir

Your Very affectionate friend & hble Servt  
Hon'ble JASPER YEATES, ESQ. EDWD. SHIPPEN.”

In 1799, Chief-Justice McKean was elected Governor of the Commonwealth. He was perfectly acquainted with

<sup>1</sup> 1 Yeates, 7.

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Judge Shippen's talents and ability. He, therefore, appointed him Chief-Justice in his own place,<sup>1</sup> an honor which the recipient's long and faithful services in the Province and Commonwealth undoubtedly merited. Judge Shippen continued in office until the latter part of the year 1805, when feeling the infirmities of age creeping upon him he resigned, and on the 16th of the following April (1806) suddenly and quietly died.<sup>2</sup>

The Philadelphia newspapers of the succeeding day contained the following paragraph.

"On Tuesday, 15 April inst., Died suddenly the Hon. Edward Shippen, late Chief-Justice of the Supreme Court of Pennsylvania, in the 78th year of his age. At a meeting of the gentlemen of the Bar of Philadelphia, Jared Ingersoll, Esq., in the chair, it was unanimously resolved that the Gentlemen of the Bar will attend as mourners the funeral of the late Chief-Justice of Pennsylvania, the Hon. Edward Shippen, and that they will wear crape on the left arm for thirty days, as a testimony of the respect they bear to his memory.—Hon. BINNEY, Sec'y."

He was buried at Christ Church Burying Ground, but without tablet or slab to mark the spot. By his will<sup>3</sup> he nominated his sons-in-law, Edward Burd and Dr. William McIlvaine, and his daughter, Mrs. Lea, as his executors, and divided his property with marked fairness among his surviving children and grandchildren.

Of the political views of Chief-Justice Shippen enough has perhaps already been said. That he opposed the separation from England is without doubt true, but in this he resembled many others whose interests or disposition prompted them to abhor change. It should, however, in this connection, be remembered that he was never accused or suspected of any positive act of disloyalty; and it is believed that the minutest scrutiny into his actions or correspondence will fail to substantiate such a charge.

<sup>1</sup> Martin's Lists in Library of Hist. Soc. of Penna.

<sup>2</sup> 1 Binney, Fly Leaf.

<sup>3</sup> Dated April 1, 1785; admitted to Probate, April 25, 1806. Registered at Phila. in Will Book 1, page 479.

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As a lawyer, Chief-Justice Shippen was without doubt "patient, discriminating, and just." To his pen we owe the first law reports published in Pennsylvania.<sup>1</sup> Unhappily but few of his decisions have been handed down to us verbatim. As far as can be judged at the present day, they evince a thoroughly careful and practical cast of mind. Not so replete as the opinions of his great successors, Chief-Justices Tilghman and Gibson, with the more abstruse learning of the profession, they intimate a most familiar and protracted acquaintance with the practical details of business, the forms of writs, nature of process, etc. etc.

"Chief-Justice Shippen was a man of large views," said Chief-Justice Tilghman, and one "for whom I always entertained a most affectionate regard."<sup>2</sup> "Everything that fell from that venerated man," said Judge Duncan, "is entitled to great respect."<sup>3</sup> He was indeed, just such a judge as the State required—of some ability, great experience, and undoubted integrity. Of his personal character, it is at this late day difficult to speak intelligently. He was a lover of literature outside the realm of his profession, and was sufficiently interested in the cause of general education to be at one time a trustee of the University of Pennsylvania.<sup>4</sup> In his relations to his family he was punctilious in the discharge of filial and fraternal duty. As to his own household, it may be remarked that his old housekeeper, Molly Cobb, who had lived with him many years prior to his death, was of opinion that "it ought to be wrote upon his tombstone that he was a good *purwider* for his family." His manners are said to have been austere and his disposition unyielding. But it should be remembered that the qualities which best befit a judge are often those least calculated to win and retain popular favor and esteem. The best extant portrait of Chief-Justice Shippen is that by Gilbert Stuart, now in the possession of the Corcoran Gallery in Washington.

<sup>1</sup> 1 Dall. 30.

<sup>2</sup> Walker v. Bamber, 8 S. & R. 61.

<sup>3</sup> Lyle v. Richards, 9 S. & R. 332.    <sup>4</sup> Id. 366.

<sup>5</sup> Austin v. Trustees of U. of Pa., 1 Yeates, 260.







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